IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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FIRST APPEAL NO. 286/1999
(Against the decision in OC No.9700448)

Union of India,
through the General Manager,
Central & Northern Railways.. **Appellant**

..**versus**.

1. Sanjaykumar Shivchand,
   age 39 , Onion Merchant of
   Manmad, District Nasik

2. Indarchand Amarchand Chopda,
   Age 42, Carting agent of Manmad,
   District – Nasik

3. Omprakash Shriprakash Mishra,
   Onion Merchant & Commission,
   Agent Shop by the onwer
   Omprakash Mishra,
   Lalbahadur Shastri Market,
   Varnashi. .. **Respondents.**

Mr. A. N. Samant, Advocate, for the Appellants.
Mr. G.J. Mohanrao with Mr.A.M.Dayama, Advocates for Respondents.

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Coram : K.J. Rohee, J.

Dated : May 3, 2006.

Judgment :

This appeal is preferred by the Union of India under Section 23 of the Railway Claims Tribunal Act, 1987 against the order of the Railway Claims Tribunal, Mumbai

2. The respondents moved application under Section 16 of the Railway Claims Tribunal Act,1987 to the Claims Tribunal claiming compensation for short delivery/ late delivery of the goods sent to the destination. The Claims Tribunal upheld the claim and granted compensation to the respondents with interest and proportionate costs. This appeal is directed against the said order.

3. I have heard Mr. A.N. Samant, Advocate for the appellant/Union of India and Mr. G. J.Mohanrao, Advocate, for the Respondents.

4. Mr. A.N. Samant, the learned counsel for the appellant, fairly conceded the decision of the Claims Tribunal granting compensation. Mr. Samant, however, urged that the Claims Tribunal could not have made order against Central Railway as well as another Railway and secondly should not

have granted interest at the rate at which it has granted.

5. I have considered the submissions made by Mr. A. N. Samant. In this respect Mr. Samant has relied on the judgment of this Court in similar appeals delivered by Hon'ble Mr. Justice D.G. Deshpande in **First Appeal No.1136 of 1992 (Union of India .vs. M/s Eknath Khemchand)** on 6th May, 2005 and Hon'ble Mr. Justice A. V. Mohta in **First Appeal No. 1851 of 2005 (The Union of India & Anr. .vs. Jain Trading Co. & Ors.**) on 6.12.2005.

6. Obviously it was unnecessary to pass orders against Central Railway as well as another Railway. Order only against the General Manager, Central Railway would suffice. Secondly, in my opinion, grant of interest at the rate of 4% P.A would be just and reasonable. In view of this, I pass the following order:

ORDER

(a) The appeal is partly allowed.

(b) The liability of payment will be that of the General Manager, Central Railway only.

(c) The principal amount awarded by the Claims Tribunal shall carry interest at the rate of 4% P.A from the date of application till realisation or till the date of payment/deposit with proportionate costs.

(d) The amount deposited, if found in excess after calculation, shall be returned/refunded to the Central Railway.

(e) The respondents shall be at liberty to withdraw the amount as per the above calculation.

(f) There will be no order as to costs.

(K. J. Rohee, J.)

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